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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,397	12/04/2003	John H. Carrington	P-6210-04-03	7543
23983	7590	11/15/2007	EXAMINER	
Ishman Law Firm P.C. P.O BOX 1245 Cary, NC 27512-1245			HYUN, PAUL SANG HWA	
			ART UNIT	PAPER NUMBER
			1797	
			MAIL DATE	DELIVERY MODE
			11/15/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/727,397

Applicant(s)

CARRINGTON, JOHN H.

Examiner

Paul S. Hyun

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

Claim 7 is objected to because of the following informalities:

The word "from" should be inserted between the limitations "formed" and "clear" in line 1 of the claim.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims **1-10** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said lift strip". There is insufficient antecedent basis for this limitation in the claim. It appears that Applicant intended the "lift strip" to refer to the "test strip" recited earlier in the claim. Claims 6-8 also recite the limitation "lift strip". It is unclear whether the "lift strip" is distinguishable from a "test strip" that is recited in claim 1. Although each claim is independent, it is suggested that the same limitation be used to refer to the strip if the "lift strip" and the "test strip" are referring to the same article.

Claim 8 recites the step of placing an opaque surface behind the test strip. The language of the claim suggests that the opaque surface is a separate article that is not a part of the claimed container. However, claim 9 recites that the opaque surface is

provided on the exterior of the container. It is not clear whether the opaque substrate is a part of the container or if the opaque substrate is a separate article that attaches to the claimed container.

Claims 1 and 6 recite the location of the claimed opaque surface/substrate with respect to the test strip. Specifically, claim 1 recites that the opaque substrate is situated opposite the test strip, and claim 6 recites that the opaque label is situated opposite the adhesive layer of the test strip. Because the test strip does not appear to be fixed (i.e. it can be removed from the pouch/container to collect the sample), it is unclear whether Applicant intended to limit the claimed invention to the specific orientation recited in the claims (i.e. the opaque substrate is situated behind the test strip). Alternatively, because the claims recite the location of the opaque substrate with respect to the test strip, it is not clear whether the opaque substrate is physically attached to the test strip.

#### ***Allowable Subject Matter***

Claims 1-10 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

Porter et al. (US 5,709,838) disclose a kit for analyzing unknown samples. The kit comprises a flexible tube, an ampoule filled with a reagent disposed inside the tube, a test strip for introducing a sample into the tube, and a clamp for sealing the tube. The test strip comprises a generally rectangular base layer, an adhesive layer overlying the

base layer, and a peel-able layer overlying the adhesive layer. In use, the peel-able layer is removed from the test strip to expose the adhesive layer, a sample is picked up using the adhesive layer, the test strip is introduced into the flexible tube, the flexible tube is sealed using the clamp, and the ampoule is crushed to enable the sample and the reagent to react. However, the kit disclosed by Porter et al. is not capable of being folded. Moreover, Porter et al. do not disclose the use of a U-shaped clip having spaced resilient legs or an opaque surface for enhancing the visual detection of the reaction of interest.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rodacy et al. (US 6,613,576 B1).

Rodacy et al. disclose the use of a solution comprising diphenylamine and sulfuric acid to identify gun powder residue.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul S. Hyun whose telephone number is (571)-272-8559. The examiner can normally be reached on Monday-Friday 8AM-4:30PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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PSH  
11/9/07

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700